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HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition (S) No. 4021 of 2007

Petitioners

1. Sahdeo Ram Maitri S/o. Shri Sakhi Ram, aged about 44 years, R/o. Village Taideori, Post-Mohali, Tahsil-Sarangarh, Distt. –Raigarh, Occupation-Service, Posted as Jaiwahak Anusuchit Jati Balak Ashram, Pindari, Sarangarh, Distt.-Raigarh (C.G.)
2. Karmaha Ratre S/o. Shri Shiv Prasad Ratre, aged about 41 years, R/o. Village-Bashinbehara, Post-Kotari, Tahsil-Sarangarh, Distt.-Raigarh, Occupation-Service, Posted as Cook Pre Matric Balak Anushchit Jati Hostel, Koshir, Sarangarh, Distt.-Raigarh (C.G.)
3. Gaurishankar Mahilane S/o. Shri B.L. Mahilange, aged about 40 years, R/o. Village Churei, Post-Hardi, Tahsil-Sarangarh, Distt.-Raigarh, Occupation – Service, Posted as Chowkidar Pre Metric Balak Anusuchit Jati Hostel, Sarangarh, Distt. Raigarh (C.G.)
4. Thakur Prasad Painkara S/o. Shri Negiram Painkara, aged about 40 years, R/o. Village Khar, Post-Keshala, Tahsil-Lailunga, Distt.-Raigarh, Occupation-Service, Posted as peon Govt. Girls Hostel, Kaya, Gharghoda, Distt.-Raigarh (C.G.)
5. Chitrasen Painkara S/o. Shri Nanhi Ram Painkara, aged about 42 years, R/o. Village Charbhata, Post-Ghatrghoda, Tahsil-Gharghoda, Distt.-Raigarh, Occupation-Service, Posted as Peon, Govt. Higher Secondary School, Gharghoda, Distt.-Raigarh (C.G.)
6. Shiv Prasad Painkara S/o. Shri Nanhu Ram Painkara, aged about 36 years, R/o. Village Charbhata, Post-Gharghoda, Tahsil-Gharghoda, Distt.-Raigarh, Occupation-Service, Posted at Pre Metric Anusuchit Janjati Hostel, Gharghoda, Distt.-Raigarh (C.G.)
7. Amrit Lal Painkara S/o. Shri Laxmi Prasad Painkara, aged about 35 years, R/o. Village Charbhata, Post-Gharghoda, Tahsil-Gharghoda, Distt.-Raigarh,

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Occupation-Service, Posted at Pre Metric Anusuchit Janjati Hostel, Gharghoda, Distt.-Raigarh (C.G.)

8. Tika Ram Nishad S/o. Shri Kurso Ram, aged about 46 years, R/o. Village Salihabhata, Post-Tamnar, Tahsil-Gharghoda, Distt.-Raigarh, Occupation-Service, Posted at Govt. Girls Hostel, Kaya, Distt.-Raigarh (C.G.)
9. Ghurau Ram Sidar S/o. Shri Andha Ram Sidar, aged about 41 years, R/o. village Salihabahat, Post-Tamnar, Tahsil-Gharghoda, Distt.-Raigarh, Occupation-Service, Posted as Jalbahak at Govt. Girls Hostel, Kaya, Distt.-Raigarh (C.G.)
10. Salik Ram Painkara S/o. Shri Injor Singh, aged about 37 years, R/o. Village Katharapali, Dolesara, Tahsil-Gharghoda, Distt.-Raigarh, Occupation-Service, Posted at Pre Matric Anusuchit Janjati Boys Hostel, Gharghoda, Distt.-Raigarh (C.G.)
11. Niranjan Prasad Jatwar S/o. Shri Dhani Ram Jatwar, aged about 37 years, R/o. Village Kapisda, Post-Uchbhithi, Tahsil-Sarangarh, Distt.-Raigarh, Occupation-Service, Posted as Jalbahak at Pre Metric Anusuchit Jati Boys Hostel, Sarangarh, Distt.-Raigarh (C.G.)
12. Tejram Jolhe S/o. Shri Ram Jolhe, aged about 40 years, R/o. Village Kapisda, Post-Uchbhithi, Tahsil-Sarangarh, Distt.-Raigarh, Occupation-Service, Posted as Jalbahak at Boys Hostel, Pindari, Distt.-Raigarh (C.G.)

Versus

Respondents

1. State of Chhattisgarh, Through the Secretary, Tribal Welfare Department, D.K.S. Building Raipur (C.G.)
2. The Commissioner, Department of Tribal Welfare Development, Raipur, Distt.-Raipur (C.G.)
3. The Assistant Commissioner, Department of Tribal Welfare Development, Raigarh, Distt.-Raigarh (C.G.)
4. The Collector, Raigarh, Distt.-Raigarh (C.G.)
5. The Collector, Adim Jati kalyan Vibhag, Raigarh, Tahsil & Distt.-Raigarh (C.G.)

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Single Bench: Hon'ble Mr. **Justice Satish K. Agnihotri.**

Present: Shri Sunil Sahu, Advocate for the petitioners.
Shri Sumesh Bajaj, Govt. Advocate for the respondents/State.

ORDER
(Passed on this 11th Day of July, 2007)

1. By this petition, the petitioners have challenged the legality and validity of the order dated 4.10.1997 (Annexure P/3) passed by the Additional Collector, Raigarh whereunder the grant of regular pay scales to the petitioners were withdrawn and the petitioners were paid thereafter daily wages as per Collector's rate.

2. The indisputable facts in nutshell, are that initially the petitioner No. 1 was engaged on daily wages on the post of Waterman vide order dated 1.5.1989, the petitioner No. 2 was engaged on daily wages on the post of Cook vide order dated 19.7.1989, the petitioner No. 3 was engaged on daily wages on the post of Chowkidar vide order dated 29.11.1989, the petitioner No. 4 was engaged on daily wages on the post of Peon vide order dated 7.3.1989, the petitioner No. 5 was engaged on daily wages on the post of Peon vide order dated 31.1.1992, the petitioner No. 6 was engaged on daily wages on the post of Peon (Waterman) vide order dated 18.3.1991, the petitioner No. 7 was engaged on daily wages on the post of Cook vide order dated 18.3.1991, the petitioner No. 8 was engaged on daily wages on the post of Waterman vide order dated 24.3.1991, the petitioner No. 9 was engaged on daily wages on the post of Waterman vide order dated 24.3.1991, the petitioner No. 10 was engaged on daily wages on the post of Waterman vide order dated 30.7.1991, the petitioner No. 11 was engaged on daily wages on the post of Waterman vide order dated 17.5.1991 and the petitioners No. 12 and 13 were engaged on daily wages on the post of Waterman vide order dated 17.5.1991 and thereafter, the petitioner No. 1 was granted

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regular pay scale vide order dated 30.4.1992, the petitioner No. 2 was granted regular pay scale vide order dated 17.7.1993, the petitioner No. 3 was granted regular pay scale vide order dated 22.12.1992, the petitioner No. 4 was granted regular pay scale vide order dated 6.3.1992, the petitioner No. 5 was granted regular pay scale vide order dated 1.2.1995, the petitioners No. 6 and 7 were granted regular pay scale vide order dated 1.4.1994, the petitioners No. 8 and 9 were granted regular pay scale vide order dated 1.1.1994, the petitioner No. 10 was granted regular pay scale vide order dated 1.8.1994, the petitioners No. 11 and 12 were granted regular pay scale vide order dated 16.5.1992.

3. The petitioners remained satisfied with the withdrawal of the regular pay scale for about 10 years. The petitioners have filed this petition after a judgment and order dated 11.7.2006 passed by this Court in W.P. (s) No. 1792 of 2005 (Manmohan Patel & others vs. State of Madhya Pradesh & others) allowed the petition, wherein the petitioners had challenged the same in the year 1998. Relying on the said decision, the petitioners have filed this petition on 25.4.2007 questioning the legality and validity of the order dated 4.10.1997 (Annexure P/3).

4. The Supreme Court in the case of **P.S. Sadasivaswamy Vs. State of Tamil Nadu**[1] observed as sunder :

> "It is not that there is any period of limitation for the Courts to exercise their powers under Article 226, nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters."

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5. The Supreme Court in the case of **State of M.P. & others Vs. Nandlal Jaiswal and others**[2] further observed as under:

> "Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactory explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction. We do not think it necessary to burden this judgment with reference to various decisions of this Court where it has been emphasized time and again that where there is inordinate and unexplained delay and third party rights are created in the intervening period, the High Court would decline to interfere, even if the State action complained of is unconstitutional or illegal.

6. The Supreme Court in the case of **Burn Standard Co. Ltd. & others Vs. Dinabandhu Majumdar & another**[3] also observed as under:

> "The very conduct of non-raising of an objection in the matter by the employee, in our view, should be a sufficient reason for the High Court, not to entertain such applications on grounds of acquiescence, undue delay and laches."

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7. The Supreme Court in the case of **Karnataka Power Corporation Ltd. through its Chairman & Managing Director & another vs. K. Thangappan & another**[4] observed as under:

> "Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prasad V. Chief Controller of Imports and Exports. Of course, the discretion has to be exercised judicially and reasonably."

8. In the present case, the cause of action arose on 4.10.1997, when the grant of regular pay scales was withdrawn. Thereafter, the petitioners had not taken any steps till filing of this petition on 25.4.2007 and remained tardy and indolent. He has not submitted sufficient reasons for unreasonable and inordinate delay of 10 years. This belated approach would certainly cause hardship and inconvenience to other side.

9. As a result and for the aforesaid reasons, the writ petition is dismissed as not maintainable on the ground of delay in approaching this Court.

Sd/-
Satish K. Agnihotri
Judge

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1. AIR 1974 SC 2271
2. (1986) 4 SCC 566
3. (1995) 4 SCC 172
4. (2006) 4 SCC 322